

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of EDWARD WILLIAMS and DEPARTMENT OF THE AIR FORCE,  
McCLELLAN AIR FORCE BASE, CA

*Docket No. 99-244; Submitted on the Record;  
Issued April 13, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
DAVID S. GERSON

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant's actual earnings represented his wage-earning capacity.

In the present case, the Office accepted that appellant, an aircraft sheet metal mechanic, sustained internal derangement of the right knee in the performance of duty on June 5, 1996. Appellant underwent arthroscopic surgery on September 9, 1996 and February 3, 1997. He returned to a modified position at four hours per day on May 19, 1997, and in October 1997 the employing establishment offered appellant a full-time light-duty position. As of October 27, 1997, appellant worked full time in the modified position. By decision dated May 21, 1998, the Office issued a schedule award for a 20 percent permanent impairment to the right leg.<sup>1</sup>

In a decision dated September 2, 1998, the Office determined that appellant's actual earnings fairly and reasonably represented his wage-earning capacity. The Office indicated that appellant was not entitled to compensation since his actual wages met or exceeded his date of injury wages.

The Board has reviewed the record and finds that the Office properly determined appellant's wage-earning capacity.

Under section 8115(a) of the Federal Employees' Compensation Act, wage-earning capacity is determined by the actual wages received by an employee if the earnings fairly and reasonably represent his wage-earning capacity.<sup>2</sup> Generally, wages actually earned are the best measure of a wage-earning capacity and, in the absence of evidence showing that they do not

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<sup>1</sup> Appellant did not request review of this decision on appeal.

<sup>2</sup> 5 U.S.C. § 8115(a).

fairly and reasonably represent the injured employee's wage-earning capacity, must be accepted as such measure.<sup>3</sup>

In the present case, the record indicates that appellant worked in a full-time modified position for over 10 months prior to the wage-earning capacity determination. There is no indication that the job was part time, seasonal or temporary, nor is there any evidence that the position was unsuitable for a wage-earning capacity determination.<sup>4</sup> Accordingly, the Board finds that the Office properly determined that the position fairly and reasonably represented appellant's wage-earning capacity.<sup>5</sup> The record indicates that appellant's actual earnings were equal to the current pay rate for his date-of-injury position, and therefore he has no loss of wage-earning capacity.<sup>6</sup>

The decision of the Office of Workers' Compensation Programs dated September 2, 1998 is affirmed.

Dated, Washington, D.C.  
April 13, 2000

Michael J. Walsh  
Chairman

George E. Rivers  
Member

David S. Gerson  
Member

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<sup>3</sup> *Dennis E. Maddy*, 47 ECAB 259 (1995).

<sup>4</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reemployment: Determining Wage-Earning Capacity*, Chapter 2.814.7 (July 1997).

<sup>5</sup> Appellant argues on appeal that the September 2, 1998 Office decision contains erroneous information, but he does not identify or explain the specific errors.

<sup>6</sup> See *Gregory A. Compton*, 45 ECAB 154 (1993).